

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: You-Pan Tzeng
692 Wolf Swamp Road, Longmeadow, MA 01106

Date application filed with the Town Clerk: October 30, 2008

Nature of request: Special Permit to create a two-family dwelling under Section 3.321 of the Zoning Bylaw by adding one dwelling unit to an existing single family dwelling.

Address: 290 West Street. (Map 20A, Parcel 39, R-N Zone)

Legal notice: Published on November 19 and November 26, 2008 in the Daily Hampshire Gazette and sent to abutters on November 14, 2008.

Board members: Thomas Simpson, Hilda Greenbaum, Eric Beal

Submissions: The petitioner submitted a packet of information with the application including:

- Completed Application form, Management Plan form, project summary and development schedule;
- An existing conditions site plan prepared by Harold Eaton Associates dated October 27, 2008;
- A proposed condition site plan prepared by Harold Eaton Associates dated October 27, 2008;
- An informal lighting diagram showing existing and proposed fixtures;
- A set of floor plans and elevations prepared by The Home Store dated October 14, 2008;
- A letter from Eagle Crest management dated September 18, 2008;
- An email, dated November 19, 2008, providing a review of the design review standards and principles (Article 7) and the proposed project and a detail of the proposed lighting;
- A copy of the Planning Board report to Town Meeting for Article 7 (submitted by staff).

Site Visit: December 3, 2008

Thomas Simpson and Hilda Greenbaum met with the applicant's representatives, Alan St. Hilaire of Eagle Crest Management and Steve Kowalski of the Home Store, at the site (Eric Beal viewed the site separately) and observed the following:

- A relatively large residential property bordered by a residential property to the south and east, the entrance to the Crocker Farms School to the north and West Street to the west;
- The existing single family dwelling, carport and driveway with two curb cuts onto West Street;

- The approximate boundaries and existing vegetated border on the north, east and south sides of the property;
- A gravel parking area situated in the Town owned right-of-way immediately adjacent to West Street;
- The general location and arrangement of the proposed addition to be attached to the north side of the existing dwelling;
- The general area of the proposed new parking area and the portion of existing driveway to be removed;
- The location of refuse storage next to the south side of the existing dwelling.

Public Hearing: December 4, 2008

The applicant, You-Pan Tzeng, presented information related to the application. He was accompanied by Steve Kowalski of the Home Store. Mr. Tzeng stated the following:

- He is the owner of property at 290 West Street;
- The existing house is a 1950's "cape style" home;
- He would like to create a duplex by adding a new structure to the north to help provide rental housing in Amherst.

Tom Simpson asked the applicant how large the new structure would be.

Steve Kowalski of the Home Store stated that the structure will be two stories, 27 ½ feet deep by 34 feet wide and that it will be attached to the existing structure. From the street it will be setback from the current house about 17 feet further than the front of the existing house. He added that a portion of the existing circular driveway will be removed to create only one driveway and one access from West Street with parking added in the back to meet the Town's parking requirements.

Mr. Simpson asked the applicant how many rooms would be in each dwelling.

Mr. Tzeng stated that the existing dwelling has four (4) bedrooms rented to students and the addition would result in a new dwelling unit with three (3) bedrooms.

Mr. Simpson asked what kind of parking facilities will be provided.

Mr. Tzeng made reference to the site plan and stated that the carport has two existing spaces and will provide two additional spaces. Mr. Kowalski responded to a statement by a Board member at the site visit regarding whether the new parking spaces would provide enough turn around area to prevent tenants from backing down the driveway and onto West Street. Mr. Kowalski stated that they have reviewed the site plan and will provide a revised plan that has adequate turn around space for the parking area.

Mr. Simpson asked how tall the new structure would be. Mr. Kowalski stated that it will be approximately 28 feet.

Mr. Simpson noted that the style of the two buildings are fairly similar to one another.

Ms. Greenbaum asked the applicant what the height of the existing building is and whether it is two-stories.

Mr. Kowalski responded that he did not know the height of the existing building. Mr. Tzeng stated that it is a two-story structure and that the new addition would be slightly taller.

Mr. Simpson asked if the applicant uses a management company for the property. Mr. Tzeng stated that he uses Eagle Crest Management for all aspects of property management including trash removal, plowing and general maintenance of the property. The applicant provided the Board with a copy of the lease for the property.

Ms. Greenbaum asked the applicant where the trash and recycling will be kept. Mr. Tzeng stated that it will be kept where it is currently, on the south side of the existing house and that it will be collected according to the management plan.

Ms. Greenbaum stated the following:

- The applicant needs to find a place for the trash to be kept so that it is screened from view and is secure from animals;
- The two proposed parking spaces are not sufficient for the number of proposed bedrooms. She recommended that the applicant have at least 8 parking spaces;
- She feels that the proposed project does not meet the aesthetic and design requirements of the Design Review Standards. She recommended changing the arrangement of the new dwelling unit so that it is moved in front of the older building and the height of the building should be compatible with the existing building to make them look like they belong together.
- She stated that she had no objections to the use of the land to create 2 separate dwelling units on the property;
- She stated that the landscape plan should not be waived.

Mr. Tzeng stated that he had considered moving the new addition closer to West Street, but thought that the zoning prevented him from doing that.

Mr. Simspon explained that the zoning district requires a minimum front yard setback of 20 feet and that it appeared that there may be room to move the structure closer to the street. He added that the site plan was not to scale and that the existing and proposed setbacks from each property line were not shown on the plan as per the application requirements. He stated that a new site plan should be submitted that is drawn to scale, showing the setbacks as required by the Zoning Bylaw and the location of the existing and proposed structure.

Ms. Greenbaum read a portion of the Design Review Board design standards, as follows - “design of alterations and additions shall, where reasonable and appropriate, strive to improve the quality, appearance and usability of buildings”.

Mr. Simpson stated that he would like to see a turn around area included in the driveway to prevent tenants from having to back out onto West Street.

Mr. Beal stated that the footprint of the new addition would be 935 sq. ft. and asked the applicant how big the existing house is. It was determined that the existing house has a footprint of approximately 835 sq. ft.

Town staff clarified that its memorandum stated incorrectly that the property was pre-existing non-conforming; the property is conforming. Additionally, the memorandum also stated that the required minimum lot area was 30,000 sq. ft. where 20,000 sq. ft. is required.

Ms. Weeks asked about lighting. The Board reviewed a reduced sized site plan which showed the location of existing and proposed lighting fixtures and a detail of the proposed downcast lighting fixtures.

Mr. Simpson recommended that the applicant submit a full size scaled drawing showing a revised parking area, all setback lines denoted as well as the building locations and landscaping features as this is a commercial property. Mr. Tzeng asked Mr. Simpson how the property was a commercial property. Mr. Simpson clarified that because it is a non-owner occupied rental property, it is considered a commercial use.

Ms. Weeks stated that there are different zoning requirements for parking areas containing more than 5 spaces. They have to be screened from abutters, with fencing or a hedge.

Mr. Simpson stated that they may not require 8 spots, but at least four. The parking area could be enclosed by a rail fence or boulders.

Ms. Greenbaum stated that there has to be enough spaces for each person and guests.

Mr. Beal commented that he was slightly concerned with the size and height of the addition. He added that he is aware of other aspects of the zoning bylaw that limit the coverage of buildings as a way to limit sizes. Ms. Greenbaum replied that the new design review standards are intended to address these concerns.

Mr. Simpson stated that he would be inclined to issue the permit, but would like to see a project that is attractive, harmonious, safe and that functions well. The permit is going to outlive all of us, so the Board has to make something that works for the Town, and the applicant.

Mr. Simpson identified the following information that the Board would like the applicant to consider and address:

- Sufficient lights on the walkway extending from the new dwelling to West Street should be shown on the site plan;
- The location of trash and recycling receptacles and in what manner they will be stored;

- With 7 tenants there should be some provision for bicycle storage, such as a pre-fabricated bicycle rack or a secure room in the carport which should be shown on the site plan;
- The property must be registered with the Board of Health as a rental unit.
- The applicant should submit a Tenant/Lessee Notification in accordance with the Special Permit application requirements.

Ms. Greenbaum moved to continue the Public Hearing to January 8, 2009. Mr. Beal seconded the motion and the Board voted unanimously to continue the Public Hearing to January 8, 2009.

Continued Public Hearing: January 8, 2009

The applicant, You-Pan Tzeng, was accompanied by Steve Kowalski of the Home Store and Alan St. Hilaire of Eagle Crest Management.

The applicant provided the following information to the Board:

- A full scale site plan prepared by Harold Eaton and Associates dated December 24, 2008;
- A revised set of floor plans and elevations prepared by the Home Store, stamped received by the Planning Department on January 8, 2009;
- A light fixture detail;
- A notarized Sworn Statement of Notice dated December 11, 2008; and
- Proof of rental registration with the Town of Amherst Health Department dated December 10, 2008.

Mr. Tzeng stated the following:

- He appreciated the recommendations he received during the last Hearing;
- They have relocated the new unit in front of the old unit, as seen from West Street;
- The old house will be remodeled, including vinyl siding, windows and shutters and roof to match the new unit;
- They have included a garden in the front of both units to help integrate the two units and they have listed the plant materials on the site plan;
- The site plan now provides lighting fixtures above each door and extra lighting at the rear of the property;
- The site plan now shows a larger turnaround area, one additional parking space and boulders to prevent the random parking of vehicles;
- The site plan shows an 8x10 shed, west of the existing carport, to store all trash and recycling and bicycles.

Mr. Simpson asked the applicant whether they have added any lighting along the sidewalks. The applicant responded that there are two lights proposed on the back of the house for the rear sidewalk. He added that there is a light on the front of the house that would light the sidewalk, especially now that the walkway is shorter because of the relocated dwelling.

Mr. Simpson stated that he still feels that there should be lights illuminating the walkways and that a downcast light of 75 Watts will not light up the entire walkway. He said he doesn't know if there are any guidelines for exterior lighting, but suggested that they may want to have them approximately every 10 feet to light the walkway adequately.

Mr. Simpson noted that during the previous Hearing, one of the Board members wanted additional parking spaces. He asked if the lease was going to restrict the number of vehicles. Mr. St. Hilaire added that the lease could restrict the number of cars, if required.

Mr. Simpson confirmed that there were seven (7) bedrooms and suggested that they would be better suited if they planned to have parking spaces for each bedroom.

Ms. Greenbaum stated that it is almost impossible to enforce the number of vehicles parking on the property despite the lease and that she would like to see a minimum of one space per bedroom and at least one parking space for visitor parking.

Mr. Simpson noted that the Zoning Bylaw requires screening for more than five spaces. He stated screening is not necessary for parking spaces labeled 1, 2 and 3 on the site plan, but some screening should be provided for the spaces in the carport and any spaces that are facing the south property line. The applicant stated that there is a mature row of evergreen trees along the south property line and the trees currently act as screening between the carport and adjacent property.

The Board discussed with the applicant the number and location of additional parking spaces. The Board and applicant agreed to consider adding one space between "space 1" and the existing house and two (2) more spaces west of the carport, where the proposed shed is shown on the plan.

Mr. Simpson stated that they had received proof that the property has been registered as a rental property with the Board of Health and that the applicant had submitted a notarized Tenant Notification letter.

Ms. Greenbaum asked what color the siding and shutters would be. The applicant responded that the siding will be white and the shutters black.

Mr. Simpson asked the applicant about the proposed use of the un-labeled room shown on the first floor plan for the new dwelling. The applicant responded that the room will be used as an office or study.

The Board spent the remainder of the time during the Public Hearing discussing conditions for granting the Special Permit. The Board also reviewed Section 3.2041, Design Review Standards and determined that the project meets the standards including height, proportion, landscaping and compatibility with the other residences in the neighborhood.

Mr. Simpson made a motion to close the Public Hearing. Ms. Greenbaum seconded the motion and the Board voted unanimously to close the Public Hearing.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings, required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with existing uses and other uses in the district. The residential use and traditional architectural design of the proposed two-family home are compatible with and similar to the existing homes in the neighborhood. The property exceeds the minimum area requirements for a two-family residence in the R-N Zoning District by 50% and provides ample parking with sufficient landscaping and screening from adjacent properties.

10.382, 10.383 and 10.385 – The proposal will not constitute a nuisance due to air pollution, lights or visually offensive structures and accessories. There will be no impact on air pollution, all exterior lights will be downcast, a portion of the parking area will be screened by existing evergreen vegetation and the new dwelling unit is compatible in design to the existing dwelling and other dwellings in the neighborhood.

10.384 - Adequate and appropriate facilities will be provided for the two-family residence. A storage shed will be built for the storage of refuse and bicycles and parking is provided in excess of what is required in the Zoning Bylaw. Adequate turnaround areas will be provided to avoid the need for vehicles back out of the driveway.

10.386 & 10.387 – The proposal ensures conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw and provides safe vehicular and pedestrian movement. Eight (8) parking spaces are provided where only 4 are required. Adequate turnaround areas will be provided. A reflective roadside address sign will be installed.

10.389 – The proposal provides adequate methods of disposal and/ or storage for sewage, refuse, recyclables, and other wastes. The property is connected to public sewer and a storage shed will be provided to store waste and recyclables.

10.392 – The proposal provides adequate landscaping, including screening from the adjacent residential uses. Existing vegetative screening along the south property line will be permanently maintained and additional landscaping will be provided as per the submitted plans.

10.393 -The proposal provides protection of adjacent properties by minimizing the intrusion of lighting. All exterior lights will be downcast and fitted with motion detectors.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw. The proposal promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst by providing needed additional rental housing whose scale, design, and impacts are in character with the neighborhood.

3.2041 - Design Review Standards – The Zoning Board of Appeals finds that the proposal meets the design principles and standards set forth in Sections 3.2040 and 3.2041 including height, proportion, landscaping and architectural compatibility with the other residences in the neighborhood.

Public Meeting - Zoning Board Decision:

Mr. Simpson made a motion to APPROVE the application with conditions. Ms. Greenbaum seconded the motion.

For all the reasons above, the Board VOTED unanimously to grant a Special Permit to create a two-family, non-owner occupied residence under Section 3.321 of the Zoning Bylaw by adding one dwelling unit to the existing single family dwelling, at 290 West Street (Map 20A, Parcel 39, R-N Zone) as requested in the application filed by You-Pan Tzeng, with conditions.

THOMAS SIMPSON

HILDA GREENBAUM

ERIC BEAL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to create a two-family, non-owner occupied residence, under Section 3.321 of the Zoning Bylaw by adding one dwelling unit to the existing single family dwelling, at 290 West Street (Map 20A, Parcel 39, R-N Zone) as requested in the application filed by You-Pan Tzeng, with the following conditions:

1. The interior of the two-family residence shall be used only as labeled on the floor plans prepared by the Home Store and stamped approved and amended by the Zoning Board of Appeals on January 8, 2009.
2. The exterior of the existing dwelling and new addition shall maintain matching exteriors including color and materials and the two-family residence shall be built according to the elevations approved by the Zoning Board of Appeals stamped approved on January 8, 2009.
3. There shall be boulders, fencing or other immovable barrier arranged around the perimeter of the parking area to prevent parking outside of the designated area.
4. The property shall be managed according to the Management Plan stamped approved by the Zoning Board of Appeals on January 8, 2009.
5. A revised site plan showing three (3) additional parking spaces and walkway lighting features shall be submitted to and approved by the Zoning Board of Appeals during a public meeting. The revised site plan should be based upon the plan prepared by Harold Eaton and Associates dated December 24, 2008.
6. The name, address and telephone number of the property management company and property owner shall be provided to the Building Inspections Department, Fire Department and Health Department and shall be kept current.
7. There shall be a reflective street number installed adjacent to West Street which shall be visible in both directions.
8. There shall be no more than four (4) unrelated residents in each unit.
9. The landscaping shall be installed in accordance with the submitted site plan by June 30, 2009 and shall be permanently maintained.
10. The evergreen hedge along the south property line and adjacent to the carport and any other parking spaces shall be permanently maintained to provide screening from the parking along the south property line.
11. This permit shall expire upon change of ownership of the property.

Thomas Simpson, Chair
Amherst Zoning Board of Appeals

DATE